



The Comptroller General
of the United States

Washington, D.C. 20548

Carter PC-1

Decision

Matter of: Red Fox Industries, Inc.

File: B-225696

Date: February 20, 1987

DIGEST

Protest against rejection of protester's proposal under mobilization base procurement, not filed until more than 1 month after date for receipt of initial proposals, is untimely where mobilization base restriction, which excluded protester from procurement, was clearly stated in request for proposals.

DECISION

Red Fox Industries, Inc., protests the Department of the Army's failure to consider its proposal under request for proposals (RFP) No. DAAA09-86-R-1900, issued by the United States Army Armament, Munitions and Chemical Command, Rock Island, Illinois. We dismiss the protest as untimely.

The procurement was synopsisized in the Commerce Business Daily (CBD) on September 30, 1986. The CBD notice stated that this was a mobilization base procurement^{1/} restricted to three named firms. The RFP was issued on November 21 and proposals were due on December 31. The RFP also stated that the procurement was restricted to the firms identified within the mobilization base; the contract subsequently was awarded to one of the mobilization base firms.


Red Fox states that the Army's contract specialist advised it on December 22 that Red Fox would be eligible for award if it submitted a proposal. Red Fox asserts that it was not until

^{1/} Mobilization base procurements may be restricted to predetermined producers in order to create or maintain their readiness to produce critical supplies in the event of future military emergencies. See Martin Electronics, Inc., B-219330, Sept. 20, 1985, 85-2 C.P.D. ¶ 314.

January 22, 1987, in a meeting with the Army, that it was advised that the offer it submitted based on the contract specialist's advice would not be considered. Red Fox asserts that its protest, filed with our Office February 4, 1987, therefore is timely under our Bid Protest Regulations, 4 C.F.R. part 21 (1986), because it was filed within 10 working days of when Red Fox was first advised by the Army that the offer would not be considered.

Our Bid Protest Regulations require that a protest based upon alleged improprieties in an RFP be filed prior to the closing date for receipt of initial proposals. 4 C.F.R. § 21.2(a)(2). Notwithstanding Red Fox's contention that it did not learn that the Army would not consider its proposal until January 22, the mobilization base restriction which excluded Red Fox from the competition was clearly stated in the RFP, and Red Fox did not contest this provision until more than a month after the closing date for initial proposals. Moreover, even assuming that the contract specialist did say that Red Fox would be eligible for award, as alleged, Red Fox's apparent decision to forego protesting the RFP restriction and instead to rely on an oral representation that clearly conflicted with the RFP was unreasonable. See Westinghouse Electric Corp., B-224492, Aug. 6, 1986, 86-2 C.P.D. ¶ 165.

The protest is dismissed.



Robert M. Strong
Deputy Associate
General Counsel